

June 10, 2016

By ECF

The Honorable James C. Francis
United States Magistrate Judge
Southern District of New York
500 Pearl Street, Room 1960
New York, New York 10007

Re: Victor Encarnacion, et al. v. City of New York, 16 CV 00156

Dear Judge Francis:

I write on behalf of Plaintiffs in response to the City of New York's ("City") request to postpone the June 16 mediation in the above-captioned matter. We do not believe there is good cause for this adjournment.

From the start, this case was brought as a general challenge to the constitutionality of the Rules of the City of New York governing the return of personal property seized in connection with arrests. Consistent with Plaintiffs' original pleading, the initial unsuccessful settlement discussions with the City explored potential systemic changes that could address these alleged constitutional violations. And the Amended Complaint continues to challenge the same Rules of the City of New York that were put at issue in the original complaint.

The fact that Plaintiffs' claims have now been brought on a class basis, and a motion for class certification has accordingly been filed, should have no impact on the Court's ability to facilitate discussions at the June 16 mediation about whether there are mutually acceptable changes in the City's policies and practices that could resolve this matter. If progress occurs on June 16 and there are specific issues that come up that require further investigation by the City, we would be happy to schedule a mutually convenient time for additional mediation discussions, whether it is on June 29 or some other date. But, for now, we respectfully submit that the mediation discussions should begin on June 16.

Respectfully submitted,

/s/ Eric Brenner

Eric Brenner

cc: NEW YORK CITY LAW DEPARTMENT
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THE BRONX DEFENDERS
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